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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,346	04/07/2004	Vilambi NRK Reddy	030553	8167
26285 7590 03/28/2008 KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP 535 SMITHFIELD STREET PITTSBURGH, PA 15222				
EXAMINER				
MENDEZ, MANUEL A				
ART UNIT		PAPER NUMBER		
3763				
MAIL DATE		DELIVERY MODE		
03/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/820,346

Applicant(s)

REDDY ET AL.

Examiner

Manuel A. Mendez

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3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-107 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-107 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 1-4**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, at least one of the following: (a) an insulating dielectric coating positioned adjacent to at least a portion of at least one of said electrodes and said leads, (b) at least one spline formed in said electrode layer, (c) a tab stiffener connected to said tab end portion, (d) a tab slit formed in said tab end portion, (e) a sensor trace positioned on said tab end portion, (f) a release cover having a donor portion structured to cover said donor reservoir and a return portion structured to cover said return reservoir, (g) at least a

portion of said flexible backing having a flexural rigidity less than a flexural rigidity of at least a portion of said electrode layer, (h) wherein a shortest distance between a surface area of an assembly including said donor electrode and said donor reservoir and a surface area of an assembly including said return electrode and said return reservoir being sized to provide a substantially uniform path of delivery for said composition through said membrane, (i) wherein a surface area of an assembly including said donor electrode and said donor reservoir is greater than a surface area of an assembly including said return electrode and said return reservoir, (j) wherein a ratio of a surface area of at least one of said reservoirs to a surface area of its corresponding electrode is in the range of about 1.0 to 1.5, (k) wherein a footprint area of said assembly is in the range of about 5 cm.sup.2 to 60 cm.sup.2, (l) wherein a ratio of a total surface area of said electrodes to a total footprint area of said assembly is in the range of about 0.1 to 0.7, (m) wherein a ratio of a surface area of said donor electrode to a surface area of said return electrode is in the range of about 0.1 to 5.0, (n) wherein a ratio of a thickness of said donor reservoir to a thickness of said return reservoir is in the range of about 0.5 to 2.0, (o) wherein at least one component of said assembly in communication with at least one of said reservoirs has an aqueous absorption capacity less than an aqueous absorption capacity of said reservoir in communication with said component of said assembly, (p) a

slit formed in said flexible backing in an area located between said donor electrode and said return electrode, (q) at least one non-adhesive tab extending from said flexible backing, (r) a gap formed between a portion of a layer of transfer adhesive deposited on said electrode layer and a portion of a tab stiffener connected to said tab end portion, (s) a tab stiffener attached to a portion of said tab end portion, (t) at least one tactile sensation aid formed in said tab end portion, (u) at least one indicium formed on at least a portion of said assembly, (v) a minimum width of a portion of a layer of transfer adhesive deposited on said electrode layer adjacent to at least one of said donor electrode and said return electrode is in the range of at least about 0.375 inches, (w) a minimum tab length associated with said tab end portion is in the range of at least about 1.5 inches, classified in class 604, subclass 20.

- II. **Claims 5-9**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor

reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, an insulating dielectric coating positioned adjacent to at least a portion of at least one of said electrodes and said leads., classified in class 604, subclass 20.

- III. **Claims 10-13**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, a tab stiffener connected to said tab end portion, classified in class 604, subclass 20.
- IV. **Claims 14-17**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said

flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, a tab stiffener connected to said tab end portion, classified in class 604, subclass 20.

- V. **Claims 18-23**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, a tab slit formed in said tab end portion, classified in class 604, subclass 20.

- VI. **Claims 24-28**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, a sensor trace positioned on said tab end portion., classified in class 604, subclass 20.
- VII. **Claims 29-36**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least

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one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, a release cover having a donor portion structured to cover said donor reservoir and a return portion structured to cover said return reservoir, classified in class 604, subclass 20.

- VIII. **Claims 37-40**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, at least a portion of said flexible backing having a flexural rigidity less than a flexural rigidity of at least a portion of said electrode layer, classified in class 604, subclass 20.

- IX. **Claims 41-45**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, wherein a shortest distance between a surface area of an assembly including said donor electrode and said donor reservoir and a surface area of an assembly including said return electrode and said return reservoir being sized to provide a substantially uniform path of delivery for said composition through said membrane, classified in class 604, subclass 20.
- X. **Claims 46-49**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and

a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, wherein a surface area of an assembly including said donor electrode and said donor reservoir is greater than a surface area of an assembly including said return electrode and said return reservoir, classified in class 604, subclass 20.

- XI. **Claims 50-54**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir

positioned in communication with said return electrode; and, wherein a ratio of a surface area of at least one of said reservoirs to a surface area of its corresponding electrode is in the range of about 1.0 to 1.5, classified in class 604, subclass 20.

- XII. **Claims 55-58**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, wherein a footprint area of said assembly is in the range of about 5 cm.sup.2 to 60 cm.sup.2., classified in class 604, subclass 20.

- XII. **Claims 59-62**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said

flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, wherein a ratio of a total surface area of said electrodes to a total footprint area of said assembly is in the range of about 0.1 to 0.7, classified in class 604, subclass 20.

- XIII. **Claims 63-66**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir

positioned in communication with said return electrode; and, wherein a ratio of a surface area of said donor electrode to a surface area of said return electrode is in the range of about 0.1 to 5.0, classified in class 604, subclass 20.

- XIV. **Claims 67-70**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, wherein a ratio of a thickness of said donor reservoir to a thickness of said return reservoir is in the range of about 0.5 to 2.0, classified in class 604, subclass 20.
- XV. **Claims 71-74**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly

comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, wherein at least one component of said assembly in communication with at least one of said reservoirs has an aqueous absorption capacity less than an aqueous absorption capacity of said reservoir in communication with said component of said assembly, classified in class 604, subclass 20.

- XVI. **Claims 75-78** , drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor

reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, a slit formed in said flexible backing in an area located between said donor electrode and said return electrode, classified in class 604, subclass 20.

XVII. **Claims 79-82**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, at least one non-adhesive tab extending from said flexible backing, classified in class 604, subclass 20.

XVIII. **Claims 83-87**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly

comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having a layer of transfer adhesive deposited thereon, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; a tab stiffener attached to a portion of said tab end portion; and, a gap formed between a portion of said layer of transfer adhesive and said tab stiffener, classified in class 604, subclass 20.

- XIX. **Claims 88-93**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor

reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, at least one tactile sensation aid formed in said tab end portion, classified in class 604, subclass 20.

XX. **Claims 94-99**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, at least one indicium formed on at least a portion of said assembly, classified in class 604, subclass 20.

XXI. **Claims 100-103**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly

comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having a layer of transfer adhesive deposited thereon, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, wherein a minimum width of a portion of said layer of transfer adhesive adjacent to at least one of said donor electrode and said return electrode is in the range of at least about 0.375 inches, classified in class 604, subclass 20.

XXII. **Claims 104-107**, drawn to an integrated electrode assembly structured for use in association with an electrically assisted delivery device for delivery of a composition to a membrane, said integrated electrode assembly comprising: a flexible backing; an electrode layer connected to said flexible backing, said electrode layer having at least a donor electrode and a return electrode; at least one lead extending from each of said donor electrode and said return electrode to a tab end portion of said assembly, said tab end portion being structured for electrical connection with at least

one component of said electrically assisted delivery device; a donor reservoir positioned in communication with said donor electrode, said donor reservoir including an amount of said composition; a return reservoir positioned in communication with said return electrode; and, wherein a minimum tab length associated with said tab end portion is in the range of at least about 1.5 inches, classified in class 604, subclass 20.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-XXII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, the subcombinations have separate utility in view of the structural variations in the Groups disclosed above. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election

shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel A. Mendez whose telephone number is 571-272-4962. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Manuel A. Mendez/

Primary Examiner, Art Unit 3763

Manuel A. Mendez
Primary Examiner
Art Unit 3763

MM